

REMARKS

The Office Action mailed September 30, 2008 and Notice of Non-Responsiveness mailed May 11, 2009 have been carefully considered. Within the Office Action Claims 5, 7-11, 15 and 19-24 have been rejected. The Applicant has amended Claims 5, 19, 21 and 23 and has cancelled Claim 15. The Applicant reserves the right to further pursue the cancelled claim in a continuation and/or divisional application as well as for appeal purposes. Applicant has also added new Claim 25. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Claim Objections

Claims 21 and 23 are objected to because of the following informalities: regarding claim 21, “part” in line 9 should be -- parts --; and, regarding claim 23, a comma should be inserted after “first axis” in line 10. Appropriate correction has been made and withdrawal of the objection is respectfully requested.

The 35 U.S.C. § 112, Second Paragraph Rejection

Claims 5, 7-11, 15, 19 and 24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. This rejection is respectfully traversed.

Under M.P.E.P. 2173.02, in reviewing a claim for compliance with 35 U.S.C. §112, second paragraph, the Examiner must consider the claim as a whole to determine whether the claim appraises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. §112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. The essential inquiry pertaining to this

requirement is whether the claims set out and circumscribe particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

See M.P.E.P. 2173.02. In determining definiteness, the Examiner should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Id. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the Examiner might desire. Id. Examiners are encouraged to suggest claim language to applicants to improve the clarity or precision of the language used, but should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement. Id.

In the present case, the Examiner rejects Claims 5, 7-11, 15, 19 and 24 on the basis that these claims are indefinite. Claims 5 and 19 have been amended, and the Applicant respectfully submits that the amended claims are definite and overcome the rejection. Withdrawal of the rejection is respectfully requested.

First Rejection under 35 U.S.C. § 103

Claims 7-10, 15, 19, 20, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 4,026,572 to Yoshioka in view of U.S. Patent No. 4,726,603 to Sugiyama et al. (hereinafter “Sugiyama”). This rejection is respectfully traversed.

Specifically, the Office Action admits that Yoshioka fails to disclose rotation prevention means provided between the coupling member 3a and each of the first and second circular members 4f, 4j to prevent any relative rotation therebetween. However, the Office Action states that it would have been obvious to one of ordinary skill in the art to provide rotation means between the first circular member and the second circular members so that the second circular member and the first circular member rotate integrally with the coupling member. The Applicant respectfully disagrees.

In determining obviousness four factual inquiries must be looked into in regards to determining obviousness. These are determining the scope and content of the prior art; ascertaining the differences between the prior art and the claims in issue; resolving the level of ordinary skill in the pertinent art; and evaluating evidence of secondary consideration. Graham v. John Deere, 383 U.S. 1 (1966); KSR Int'l Co. v. Teleflex, Inc., No 04-1350 (U.S. Apr. 30, 2007) (“ Often, it will be necessary . . . to look into related teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit.**”) (emphasis added).

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530 (Fed. Cir. 1983). Thus, when considering the whole prior art reference its entirety, portions that would lead away from the claimed invention must be considered. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983), See M.P.E.P. 2141.02. Thus, it

is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731 (Fed. Cir. 1983).

Applicant's specification is directed to an articulated junction device between a load bearing structure and a suspended structure. As stated in the specification, the suspended structure hangs below the load bearing structure, the latter thus being located above the suspended structure. Such a junction device could be used, for example, between a wing of an airplane and a motor suspended to this wing, in which the junction device allows the components of the airplane to be as compact as possible while being moved in a vertical direction.

In contrast, Yoshioka does not concern this type of junction device. On the contrary, Yoshioka relates to means for preventing vibrations or shocks of a "loaded housing." Loaded housing, as specifically defined in Yoshioka, is a load bearing body which is supported through a shaft means, as in such the loaded housing may include a piston, a swing arm, a roll, a roller, a pulley, an impeller, etc. (Yoshioka, Col 1, Lines 20-28). Yoshioka teaches the prevention of vibration or shocks of a loaded housing from being transmitted to a support means carrying the loaded housing through a shaft. In particular, as described in Yoshioka, the prior art prevented or absorbed vibrations or shocks by inserting a resilient material such as rubber or synthetic resin or a metallic spring in the shaft junction between the loaded housing and the support means, in order to give another degree of freedom of movement to the loaded housing (Yoshioka, Col 1, Lines 43-59). Yoshioka's invention replaces this resilient material or metallic spring with means for allowing movement of the axis of rotation of the loaded housing along a circular path about a second axis spaced from and parallel to the first axis.

In the embodiments of several figures of Yoshioka, a machine 9 which generates vibrations or shocks is secured to a loaded housing 1 that is connected to a foundation 8 through a shaft 3a and an eccentric member 4f. (Yoshioka, Col. 7, Line 57-Col 8, Line 10). In the case

of Figure 31, additional eccentric members 4j are added. As clearly specified column 20, lines 22-24, “the shaft 3a must be rotatable with respect to at least one of the eccentric members 4f, 4i” (emphasis added). Therefore, Yoshioka clearly requires that the shaft be rotatable with respect to at least one of the eccentric members (See Yoshioka, Figure 31). Further, without rotation of the shaft, the function of preventing or absorbing vibrations or shocks would not be performed, thereby destroying the intended purpose of the Yoshioka device. Consequently, a person having ordinary skill in the art would not be motivated to combine Yoshioka with the rotation prevention means of Sugiyama et al.

Assuming the foundation 8 is compared to the claimed load bearing structure and the machine 9 to the claimed suspended structure, a person having ordinary skill in the art would not be motivated to use Yoshioka, because the machine 9 is clearly not suspended or hanged to the foundation 8. Even if one skilled in the art were to use Yoshioka, the combination does not teach or suggest each and every element/limitation of the independent claims, as required to establish a *prima facie* case of obviousness. As stated, the claimed articulated junction device is directed to the connection between a load bearing structure and a suspended structure hanged below the load bearing structure.

Finally, column 22, lines 8-11 of Yoshioka teach that spherical surfaces can be provided between the eccentric member and the loaded housing or between the eccentric member and the support housing in order to provide self-alignment, but do not teach that spherical surfaces be provided both between the eccentric member and the suspended structure and between the eccentric member and the load bearing structure, in order to define two ball joint connections, as now claimed in claim 19. Considering that the combination of Yoshioka and Sugiyama does not teach or suggest each and every element/limitation of the independent claims. Thus, claim 19

and claims 5, 7-11, 15 and 24 depending from this independent claim should be patentable, as well as independent claims 20, 21, 22 and 23.

Second Rejection under 35 U.S.C. § 103

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshioka in view of Sugiyama as applied to claims 7-10, 15, 19, 20, 22 and 23 and further in view of U.S. Patent No. 3,529,790 to Buch. For the record, Applicant respectfully disagrees with the rejection and contends that Claim 5 is dependent on an allowable base claim and is thus also allowable for containing additional distinguishable limitations.

Third Rejection under 35 U.S.C. § 103

Claim 21 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshioka in view of Sugiyama and further in view of Buch. For the record, Applicant respectfully disagrees with the rejection and contends that Claim 21 is dependent on an allowable base claim and is thus also allowable for containing additional distinguishable limitations.

Fourth Rejection under 35 U.S.C. § 103

Claims 11 and 24 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshioka in view of Sugiyama as applied to claims 7-10, 15, 19, 20, 22 and 23 and further in view of U.S. Patent No. 5,580,201 to Brilmyer. For the record, Applicant respectfully disagrees with the rejection and contends that Claims 11 and 24 are dependent on an allowable base claim and is thus also allowable for containing additional distinguishable limitations.

New Claim

Applicant has added new dependent claim 25, and contends that no new matter has been entered. Claim 25 recites *inter alia*, the first circular member is configured to cooperate with the load bearing structure through a first spherical surface defining a first ball point connection between the load bearing structure and the coupling member, the second circular members configured to cooperate with the two plates of the suspended structure through a second spherical surface defining a second ball joint connection between the suspended structure and the coupling member. Applicant contends that none of the limitations in Claim 25 are not taught or suggested in the cited art, and respectfully requests allowance of Claim 25.

Conclusion

It is believed that this reply places the above-identified patent application into condition for allowance. Early favorable consideration of this reply is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

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